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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/790,428 | 03/01/2004 | William E. Adams | 030655 | 9794 |

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BUCHANAN INGERSOLL & ROONEY PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

| EXAMINER | |
|---|---|
| WILLIAMS, MARK A | |
| **ART UNIT** | **PAPER NUMBER** |
| 3676 | |

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/790,428 | ADAMS ET AL | |
| | Examiner | Art Unit | |
| | Mark A. Williams | 3676 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *09 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *9,12,13 and 16* is/are allowed.

6)☒ Claim(s) *1-8, 10, 11, 14-15, 17, and 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelavin, US Patent 3,907,118, in view of US Publication Document 2002/0144962 A1 to Dettorre et al. Pelavin discloses a door hook to be extended over a door top to both sides of a door, the door hook comprising a U-shaped bracket 11 having a top member 17, a front side 19 which is attached to one edge of the top member, and a back side 18 which is attached to an other edge of the top member opposite the one edge, wherein the front side and back side are separated by a first distance; a hook member 33 attached to the front side; and a spacer portion 22, the spacer portion being attached to the U-shaped bracket and configured for attachment to the back side such that the back side with the spacer portion attached thereto and the front side are separated by a second distance different from the first distance. The second distance is less than the first distance.

The bracket is of metal and can be formed of plastic as well; a tab or finger is attached to the spacer.

Pelavin discloses the claimed invention except for teaching the spacer portion being detachable for reattachment, as claimed. Dettorre teaches such a detachable spacer 27 by means of a threaded member or snap-fitting engagement. It would have been obvious at the time the invention was made for one skilled in the art to have included in the design of Pelavin such a modification, as generally taught by Dettorre, for the purpose of providing a means for removably attaching the spacer to the bracket.

3. Claims 3, 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelavin in view of Dettorre. Although the particular means of fastening the spacer to the bracket are not explicitly taught by the combination, the examiner serves Official Notice that it is known in the art of fasteners to utilize various types of means to join two members in a desired fashion, including double sided tape, adhesives, and threaded members. Such structures are considered functionally equivalent. It would have been obvious at the time the invention was made to modify the device in this way for the purpose of providing an alternative

means of fastening the spacer in a desired manner that would have functional equally as well.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pelavin in view of Dettorre. Although an acute angle is not explicitly taught, it would have been an obvious matter of design choice to make the different portions of the device of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Such a modification is not critical to the design and would have produced no unexpected results. Such an angle would increase the clamping action of the device.

5. Claims 5, 15, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelavin in view of Dettorre, and in further view of Gregory et al., US Patent 5,515,981. The combination does not explicitly teach the bracket and the spacer being molded adjacent the back side, as claimed. It is well known to mold and product in such a manner. Gregory teaches the generally concept of molding different parts adjacent one another for creating a desired end product. It

would have been obvious at the time the invention was made for one skilled in the art to have modified the design of the combination to include such a modification, as generally taught by Gregory, for the purpose of creating a desired end product by a process of molding.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pelavin in view of Dettorre. The combination discloses the claimed invention except for explicit teaching of the particular range claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to the device in such a way, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Such a modification is not critical to the design and would have produced no unexpected results.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pelavin in view of Dettorre. The combination discloses the claimed invention except for the second hook, as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the

device in this way, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Such a modification is not critical to the design and would have produced no unexpected results. A second hook would provides additional means for hanging objects as desired.

### *Allowable Subject Matter*

6. Claims 9, 12, 13, and 16 are allowed.

### *Response to Arguments*

7. Applicant's arguments filed 8/9/06 have been fully considered but they are not persuasive.

Applicant argues that Pelavin teaches that the spacer member should not be removed. However, it is the position of the examiner that even though the particular design of the concept of Pelavin's spacer members happens to provide spacer members not intended to be removed, there is no reason why the spacer members could not be removable. Further, using alternative attaching means of the spacer members may obviously result in a removable device. Such a modification is believed fall within the scope of the device of Pelavin. It is still

believed that the device of Pelavin is not limited in scope by merely the particular attaching means shown.

Applicant argues that there is no teaching or motivation to make the spacer removable and to do so would be hindsight reasoning. It is the position of the examiner that one skilled in the art would know that various means of attaching the spacer could be used, including removable means of attachment, as known in the art of joinable elements. Dettorre obviously shows to one skilled in the art the concept of providing a removable spacer element that could be used also in the device of Pelavin as an alternative means of mounting the device. The device would obviously be removable because the means of attachment provided by Dettorre obviously allows for removal; the assertion that it is not intended to be removable on a regular basis does not over ride the fact that the obvious combination would result in a device with a spacer that is capable of being removable, regardless of the intended use.

## *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (571) 272-7064. The examiner can normally be reached on Monday through Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams
9/13/06

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER